

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:18-CV-133-FL

TIMOTHY CAPPS,

Plaintiff,

v.

NEWMARK SOUTHERN REGION,
LLC,

Defendant.

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ORDER

This matter came before the court for telephonic hearing on defendant's motion for trial via videoconference. (DE 203). In light of the clear preference in the Federal Rules of Civil Procedure for trials conducted in open court, see Fed. R. Civ. P. 77(b), defendant's motion is DENIED. However, the court will allow three witnesses identified by defense counsel during motion hearing as vulnerable individuals to testify via contemporaneous transmission from a different location if the bench trial proceeds at present setting. (See Procedures at the United States Courthouse at New Bern During the COVID-19 Pandemic (DE 188) at 1); Fed. R. Civ. P. 43(a).

In light of the foregoing disposition of defendant's motion, the court inquired of the parties whether either side would like to request a continuance of trial. Both parties indicated they would like to confer with their clients. Not later than close of business today, the parties are ORDERED to file either 1) a motion for continuance if desired by the parties' clients, together with suggested trial dates in consultation with the clerk and accounting for religious holidays, or 2) notice that the parties wish to proceed to trial as scheduled.

Turning to trial preparation, the parties' respective motions in limine (DE 190, 193) are DENIED without prejudice, where the issues of law raised therein are not evidentiary questions susceptible to address prior to commencement of trial.

SO ORDERED, this the 27th day of August, 2020.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style.

LOUISE W. FLANAGAN
United States District Judge